EDITORIALS

D+C Dec 18 '86

The blindfold, please, on Topfree 7 decision

The statue of Justice wears a blindfold. After this week's decision by City Court Judge Herman Walz in the celebrated case of the "Topfree Seven," that's fortunate.

Walz's decision makes as little sense as the action by the seven women who took their shirts off in Cobbs Hill Park last summer.

For them the issue was discrimination. Under New York law, men can go without their shirts. Women can't. The law was unconstitutional, they argued.

But the seven went further. They also claimed that their First Amendment free speech rights were violated when police arrested them.

Walz, to his credit, allowed these issues to be raised and debated. He held lengthy hearings last fall. Testimony ranged from breast-feeding in public to the exploitation of women in magazines like *Hustler*.

The Topfree Seven became national celebrities, appearing on the *Donahue* show (with their clothes on) to debate Monroe County District Attorney Howard Relin (also clothed).

Even now, when there is the slightest mention of the case, some local television stations are quick to trot out the file film of that bare-chested summer's day in the park.

SOMEONE HAD to make some sense out of all this, and Walz, many thought, was the man to do it. He is sensitive and smart; he had argued many civil disobedience cases himself.

But Walz's decision this week clarifies nothing, pleases almost nobody, and confuses all sides.

First, he concluded that there is no fundamental right to appear nude or top-free in public. Communities have a right to prohibit such behavior. The New York law is constitutional.

Fair enough. But then the judge ruled that the Topfree Seven's rights to free speech under the Constitution had been *violated* by that same law. How's that again? Because, he concluded, they were protesting the law they were breaking, and the protest was more important than the law.

Confused? So was Relin, and for good reason. His first reaction was to call for an appeal, but now he may change his mind. The DA wants to prevent the Seven from arguing their case in a higher court.

Relin would be wise not to appeal. Enough is enough. Yes, there is discrimination on the issue of bare chests, but that's true on many and much more important issues regarding women.

The point — whatever the Topfree Seven or Walz or the rest of us think the point is — has been made.

BUT ALAS, enough may not be enough. One of the Seven now is saying that come summer, they may go to the park again and disrobe, this time as sunbathers who won't invoke the First Amendment.

They'll get themselves arrested, and this time — to ensure that their case can get to a higher court — they'll make nudity the issue.

If that happens — the blindfold, please.

NUDITY IS NOT the issue

The sky's no limit

Churches are accustomed to looking to the heavens for solutions to problems temporal. But in development-crazed New York City, the sky itself could be worth millions of dollars to some churches.

A newly discovered loophole in the regulations that control the density of high rise development projects seems to give churches the right to sell the air rights over their adjacent cemeteries.

Since cemeteries are permanently undeveloped, churches can transfer their right to build skyward to an adjacent property owner who can use the air rights to add more stories to his building.

One landmark church expects a $4 million windfall from the sale of its air rights to a developer who hopes to use the extra piece of sky to add a dozen stories to a proposed 18-story office building.

Air rights could be the answer to every developer's prayer — and for the churches, the closest thing yet to manna from heaven.

The homeless street people need more than

VERNON G. BAKER

Police officers see vagrants. Ambulance drivers and workers at soup kitchens and shelters see sick, hungry, needy people. The majority of us who hurry along city streets see slouched shoulders draped with ragged clothes. But as Henry David Thoreau reminds us, "We cannot see if we do not feel."

What, then, do we feel when street people come out from their sleeping places under bridges or exit from shelters and stray into our path of vision?

The pervasive tendency has been to victimize the victims: "The homeless? Sure it's a problem, but there'll always be poor people. Besides, they're out there because they want to be. They just don't want to work. A shelter? That's OK, but don't put it in my neighborhood!"

pression and, for some, drug dependence.

The journey that leads to the street is tied to a complex set of personal, social, economic and psychological problems. The loss of a job, the termination of welfare assistance, eviction from an apartment or the death of a loved one may be the trigger. Soon, a person loses self-respect, confidence and hope. Guilt, shame, paranoia, anger, frustration and eventually complete emotional debilitation keep the vicious cycle in force.

The two common respites from the street are soup kitchens and shelters.

Soup kitchens provide free food. Coffee, bread, soup, stew and sandwiches are

a night or two indoors, off the street. They are assigned beds with wool blankets in a communal room. Imagine yourself in a room 30 by 30 feet filled with 80 or more men, women and children. People are huddled together, face-to-face with the reality of their condition. They are forced to see themselves in the mirror of other homeless faces and bodies. They are blanketed by rank cigarette smoke. Senses are frenzied by blaring black-and-white television and arguments over which program to watch.

A 6-year-old child is shoved once, then twice, as it clutches its mother's side. For it is at this time — waiting for an assigned sleeping place — that young children see and smell and listen to the frustration and anger of the adults. And when confusion and fright well up in a

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These responses and similar ones, some

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